

141.
Submissions by Andrea Armstrong
Reasons for Judgment - Collins, J.

5 apparently, she had seen me hit and then her other statement saying that she hadn't which means they really only had one witness that saw hit - that she didn't see because the accused said I hit her from the back and this witness says I hit her from the front shoulder area. Didn't happen. I'm sorry that it's wasted a lot of taxpayers' time and money and taking so much time away from my kids.

10 THE COURT: Thank you.

R E A S O N S F O R J U D G M E N T

COLLINS, J. (Orally):

15 The defendant has been charged with assault, level one. The event occurred at a warming room in the City of Peterborough. The complainant, Rachel Carkner, was heavily pregnant at the time. She had just come out of hospital, in fact, and soon after this event went back into hospital. She was seated we are told at a computer in what must be the main room at the community drop-in centre known as Our Space. We are told that the room, in fact, is larger than this courtroom which is 44 feet by 25 feet. The complainant says that the defendant approached from behind shouting and screaming and gave her, that is 20 Rachel, a fairly heavy push that almost caused her to fall off the chair. She says that as 25 she caught her balance, she noticed the defendant reaching into Rachel Carkner's bag 30

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and, at that point, had a grip on her cell phone charger and her wallet. She says that the two of them were more less grabbing onto each other and the two items fell back into the bag.

The cause of this was an issue concerning the cell phone charger, itself. Rachel Carkner babysat, at least, one time for the defendant and her cell phone charger, she says, was identical to that of the defendant's daughter. We have a pile of text messages calling for the return of the daughter's cell phone charger and it was with this in mind that the defendant came into the main room of Our Space community drop-in centre.

The defendant has called the testimony of her 12 year old daughter to say that all was done in a fairly reasonable and quiet manner.

That is not the testimony or the position taken by Mary Lou Green who is a worker at Our Space and Tami Taylor who is also a worker at the same place. Mary Louise Green heard the defendant coming into the place yelling, LIE ranting, screaming and come into contact very closely with Rachel Carkner. By the time Mary Louise Green could get to the confrontation, Tami Taylor had managed to get in between the two of them and get them separated. Tami Taylor also notes that it was the defendant

5 who was doing all the shouting and she
witnessed the defendant pushing Rachel
Carkner. She says the push was from the
front. Rachel Carkner says it was from the
back but, in all the excitement, I have no
doubt, whatsoever, that the push took place.
10 These two witnesses are not part of a great
conspiracy. They are independent witnesses,
not there for one side or the other. They are
not like family members. As soon as they were
separated, it became necessary for Tami Taylor
15 to extricate Rachel Carkner and get her into
the washroom away from the defendant. Mary
Louise Green says she had to stand at the
washroom door to prevent the defendant from
going into the washroom. Mary Louise Green
20 was absolutely certain that the defendant was
intending to visit some physical violence upon
the heavily pregnant Rachel Carkner.

FALSE

25 There is this issue about the cell phone
charger. It only is relevant insofar as it
explains why the event took place but the
issue before the court is whether or not an
assault took place. The testimony of Tami
30 Taylor combined with all of the noise that she
reports and Mary Louise Green reports all
emanating from the defendant makes it clear
that the assault beyond reasonable doubt took
place and the defendant is found guilty, as
charged. Moving for sentence...
ANDREA ARMSTRONG: I'm appealing that one.

THE COURT: ...on behalf of the Crown.

ANDREA ARMSTRONG: Thank you very much.

THE COURT: Well, now, you can be silent. We have a moment here.

MS. EBERHARD: The Crown is asking for a period of probation. Conditions to keep the peace and be of good behaviour; to have no contact with Rachel Carkner; to have no weapons, no firearms and I would ask that Your Honour consider a DNA order.

THE COURT: Whereabouts are you living now, Madame?

ANDREA ARMSTRONG: Far away from here where I cannot be around any of these crack heads. Thank you very much.

THE COURT: Where are you living now, Madame?

ANDREA ARMSTRONG: Richmond Hill.

THE COURT: Address in Richmond Hill?

ANDREA ARMSTRONG: 40 Waterhouse Way. And I have a private prosecution form made up for the theft of the...

THE COURT: That is fine...

ANDREA ARMSTRONG: ...cell phone charger...

THE COURT: ...but...

ANDREA ARMSTRONG: ...for Rachel.

THE COURT: ...I am not going to entertain that now. It is not for me to entertain. What do you wish to say on the subject of penalty, if anything?

ANDREA ARMSTRONG: Pardon me?

THE COURT: What do you wish to say on the subject of sentence?

ANDREA ARMSTRONG: We go to sentence right now?

THE COURT: Yes.

ANDREA ARMSTRONG: I'd rather like to get some legal advice before I speak on sentence. Thought you usually did sentencing separately. I have two children. I have full custody of them. I'm on ODSP. I do not have anybody to babysat my children.

THE COURT: There is not going to a jail term of....

ANDREA ARMSTRONG: I am not capable of...

THE COURT: There is not going to be a jail sentence...

ANDREA ARMSTRONG: ...doing a lot of community service.

THE COURT: ...if that is what you are wondering.

ANDREA ARMSTRONG: Well, that's what the police were threatening.

THE COURT: The Crown is simply asking for a suspended sentence, probation for a period of time, remain away from and not contact directly or indirectly this woman.

ANDREA ARMSTRONG: Can you put that order against her since she did steal from my daughter and my daughter is afraid of her?

THE COURT: I cannot do anything on that. My powers do not go that far. I cannot do that with a witness. Is there anything further you say on the subject of sentence?

ANDREA ARMSTRONG: Just that I'm laying a

private charge for theft. I've proven the
theft. If the police had dealt with it...

THE COURT: I....

ANDREA ARMSTRONG: ...properly, this wouldn't
have happened.

THE COURT: All right. Is there anything you
say on the subject of sentence?

ANDREA ARMSTRONG: Without legal counsel, I
can't, thank you very much.

THE COURT: All right. I will go and get my
diary and we will give you another chance to
come with legal counsel, if that is what you
ask. Is that what you....

ANDREA ARMSTRONG: No legal counsel will
touch...

THE COURT: Is that what you want?

ANDREA ARMSTRONG: ...this because of who the
victim is because she's lied about other
lawyers. No...

THE COURT: Look, I have heard all of this.

ANDREA ARMSTRONG: ...Peterborough(sic) will
take this.

THE COURT: I do not need that. We are
dealing with your matter at this point, not
hers.

ANDREA ARMSTRONG: Yes, I need some time to
speak to the one lawyer that I have found to
speak to, yes.

THE COURT: All right. I shall go and get my
diary and we will figure out when sentence is
going to take place.

R E C E S S

U P O N R E S U M I N G :

THE COURT: Well, I have a choice of dates
for you. If you want to write them down and
you can tell me which one you prefer:
Tuesday, the 16th of June; Friday, the 19th of
June; Tuesday, the 30th of June.

ANDREA ARMSTRONG: Friday, the 19th, would
work.

THE COURT: Friday, the 19th of June?

ANDREA ARMSTRONG: Uh-hmm.

THE COURT: For sentence. Thank you.

COURTROOM CLERK: Is that in this courtroom,
Your Honour?

THE COURT: I do not know which courtroom I
am going to be in. Just be wherever I happen
to be. Thank you.

MS. EBERHARD: Thank you, Your Honour.

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